



FEDERAL ELECTION COMMISSION
Washington, DC 20463

July 29, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1994-23

Bradley W. Hertz
Reed & Davidson
777 South Figueroa Street
Suite 3400
Los Angeles, CA 90017

Dear Mr. Hertz:

This responds to your letter dated June 20, 1994, concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to a proposed consolidation of payroll deduction operations of two affiliated separate segregated funds.

The Northrop and Grumman Corporations recently merged, creating Northrop Grumman. As separate corporations, Northrop and Grumman maintained their own separate segregated funds. Northrop Grumman is presently maintaining both SSFs separately, but it wishes to consolidate them into a new SSF, Employees of Northrop Grumman PAC ("ENGPAC").

The Northrop SSF and the Grumman SSF intend to send letters to the members of their plans informing them of the formation of ENGPAC and notifying them that their payroll deduction contributions, which had formerly funded the two SSFs, will now fund ENGPAC, unless the employee terminates his or her participation via an enclosed form.

The letter advises the contributor as follows: "Please fill out the enclosed form if you wish to change your contribution or if you wish to terminate your participation. Otherwise, your participation will transfer automatically and your deduction will go directly through to the new PAC." The form provides options for contributing by check or money order, authorizing a weekly deduction amount, or canceling the payroll deduction.

The letters will be sent in advance of the actual transfers of the deduction authorizations. They will contain all of the appropriate notices pursuant to 2 U.S.C. 441b(b)(3)(B) and (C) and 11

CFR 114.5(a)(1)-(5), including disclosing the political purposes of the fund and the right to refuse to contribute without any reprisal. The solicitation will stress the voluntary nature of an employee's participation and the continuing right to revoke an authorization without reprisal.

You state your belief that so long as the statutory and regulatory requirements set forth above are met and the employees are given the option to revoke their authorizations, new authorizations from those who have already authorized deductions are not necessary.

The Commission considered a situation that, in all material aspects, is indistinguishable from your situation. In Advisory Opinion 1991-19, the Commission was presented with a situation in which Corporation A, which maintained an SSF, acquired Corporation B, which also maintained an SSF, and B became A's wholly-owned subsidiary. At the time of the request, A was operating both PACs, but A planned to consolidate them into one PAC, i.e., A's PAC. The two companies were in the process of combining their payroll deduction operations. This would affect those employees who had previously requested payroll deductions for contributions to B's PAC, because previously authorized payroll deductions to B's PAC would now be remitted to A's PAC. Before implementing the payroll deduction transfer, Company A planned to send a letter to each individual affected by the transfer informing that person that the change in payroll deduction would occur simultaneously with the transfer of that person's payroll from Company B to Company A. The letter would contain the appropriate notices from 11 CFR 114.5 and all contributors would be notified of the PAC merger.

The Commission approved this proposal without requiring the employees of Company B to execute new authorizations. The Commission required that the letter follow the rules relating to suggestion of guidelines for contributions and informing the contributor of the political purposes of the PAC. 11 CFR 114.5(a)(2)(and (3)). The Commission also required that the letter be sent in advance of the actual transfers of the deductions, that they remind the contributors of the voluntary nature of the contributions, and that they explicitly notify the contributors of the continuing right to revoke the authorization without reprisal. See 11 CFR 114.5(a)(4) and (5).

Based on the conditions set out by you, which appear to comply with Advisory Opinion 1991-19 and with the requirements of 11 CFR 114.5(a), the Commission approves your client's plan for sending out the proposed letter and enclosed form. No new authorization is required from those employees who are not changing their authorized deduction or canceling their deduction.^{1/}

This response constitutes an advisory opinion concerning application of the Act, or regulations prescribed by the Commission, to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

For the Commission,

(signed)

Trevor Potter
Chairman

Enclosure (AO 1991-19)

1/ The Commission reminds you that payroll deductions for contributions to a corporation's SSF are only permitted for the company's executive and administrative employees and for those employees who are also stockholders. See 11 CFR 114.6(e)(1), 114.12(d), and 114.5(k)(1).